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T.R.A. DOCKET ROOM
August 4, 2003

VIA HAND DELIVERY

Hon. Deborah Taylor Tate, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with
BellSouth Telecommunications, Inc. Pursuant to the
Telecommunications Act of 1996
Docket No. 03-00119

Dear Chairman Tate:

Enclosed are the original and fourteen copies of direct testimony being filed on
behalf of BellSouth by the following witnesses:

Kathy Blake ✓
Ronald M. Pate ✓

W. Keith Milner
John Ruscilli

The exhibit to Mr. Milner's testimony is proprietary and will be filed under
separate cover pursuant to the Protective Order entered in this matter. Copies of the
enclosed are being provided to counsel of record.

Very truly yours,

Guy M. Hicks

GMH:ch

CERTIFICATE OF SERVICE

I hereby certify that on August 4, 2003, a copy of the foregoing document was served on the parties of record, via the method indicated:

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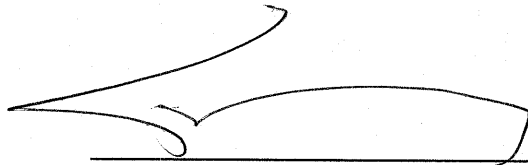
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TBA DIRECTOR

BELLSOUTH TELECOMMUNICATIONS, INC.
DIRECT TESTIMONY OF KATHY K. BLAKE
BEFORE THE TENNESSEE REGULATORY AUTHORITY

DOCKET NO. 03-00119

AUGUST 4, 2003

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC. ("BELLSOUTH") AND YOUR BUSINESS ADDRESS.

A. My name is Kathy K. Blake. I am employed by BellSouth as Director – Policy Implementation for the nine-state BellSouth region. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND EXPERIENCE.

A. I graduated from Florida State University in 1981 with a Bachelor of Science degree in Business Management. After graduation I began employment with Southern Bell as a Supervisor in the Customer Services Organization in Miami, Florida. In 1982, I moved to Atlanta where I held various positions involving Staff Support, Product Management, Negotiations, and Market Management within the BellSouth Customer Services and Interconnection Services Organizations. In 1997, I moved into the State Regulatory Organization with various responsibilities for testimony preparation, witness

1 support and issues management. I assumed my current responsibilities in July,
2 2003.

3

4 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

5

6 A. The purpose of my testimony is to present BellSouth's position on several
7 unresolved policy issues included in the arbitration between BellSouth and
8 ITC^DeltaCom Communications, Inc. ("DeltaCom"). My testimony
9 specifically addresses Issues 26, 36, 37, and 57. Each of these issues likely
10 will be impacted by the Federal Communications Commission's ("FCC's")
11 Triennial Review decision.

12

13 Q. PLEASE BRIEFLY DESCRIBE WHAT YOU MEAN BY THE TRIENNIAL
14 REVIEW DECISION AND HOW BELL SOUTH PROPOSES THE
15 AUTHORITY PROCEED IN ADDRESSING THESE ISSUES?

16

17 A. On February 20, 2003, the FCC adopted new rules concerning incumbent local
18 exchange carriers' ("ILECs") obligations to make elements of their network
19 available on an unbundled basis to new entrants. As of the date of my
20 testimony, the FCC has not issued its written order and, as such, the FCC's
21 February 20, 2003 action has no effect on this proceeding. BellSouth's
22 position is that the Tennessee Regulatory Authority ("TRA" or "Authority")
23 should consider the evidence put forth in this proceeding and render its
24 determination of the issues based on the **current** statutory and regulatory
25 requirements, and not by any party's speculation of what the FCC may

1 ultimately reflect in its written Triennial Review Order. In fact, it is unclear
2 which issues will be addressed and resolved solely by the FCC and which
3 issues will be relegated or delegated to state commissions to resolve. At the
4 time the ruling body's (FCC or state commission) order becomes effective, the
5 change of law provisions in the interconnection agreement will allow the
6 interconnection agreement to be revised accordingly. In addition, BellSouth
7 reserves the right to supplement its testimony following the issuance of the
8 FCC's written Triennial Review Order.

9
10 ***Issue 26: Local Switching – Line Cap and Other Restrictions (Attachment 2 –***
11 ***Sections 10.1.3.2 and 10.1.2):***

12 ***(a) Is the line cap on local switching in certain designated MSAs only for a***
13 ***particular customer at a particular location?***

14 ***(b) Should the Agreement include language that prevents BellSouth from***
15 ***imposing restrictions on DeltaCom's use of local switching?***

16 ***(c) Is BellSouth required to provide local switching at market rates where***
17 ***BellSouth is not required to provide local switching as a UNE? If so, what***
18 ***should be the market rate?***

19
20 Q. WHAT IS BELL SOUTH'S POSITION ON THESE ISSUES?

21
22 A. (a) When a particular customer has four or more lines within a specific
23 geographic area, even if those lines are spread over multiple locations,
24 BellSouth is not obligated to provide unbundled local circuit switching as long
25 as the other criteria in FCC Rule 51.319(c)(2) are met.

1
2 (b) No, the interconnection agreement should not include language that
3 prevents BellSouth from imposing restrictions on DeltaCom's use of local
4 switching. The current FCC rules impose restrictions on DeltaCom's use of
5 local switching and set forth the specific criteria under which BellSouth can
6 avail itself of the local switching exemption. These rules should continue to
7 apply unless and until they are lawfully amended by the FCC. BellSouth
8 reserves the right to supplement its testimony following the issuance of the
9 FCC's written Triennial Review Order.
10

11 (c) BellSouth will provide local switching at market-based rates where
12 BellSouth is not required to unbundle local switching. The appropriateness of
13 BellSouth's rates for providing local switching where it is not required by the
14 Telecommunications Act of 1996 ("the Act") or the FCC's Rules
15 implementing the Act are not governed by §§ 251 or 252 of the Act and,
16 accordingly, it is not appropriate to address this matter in an arbitration
17 proceeding.
18

19 Q. HAS THE AUTHORITY PREVIOUSLY ADDRESSED THE
20 APPLICATION OF THE LINE CAP ON LOCAL SWITCHING (ISSUE
21 26A)?
22

23 A. Yes. In its decision in the BellSouth/AT&T arbitration proceeding, the
24 Authority voted to "permit BellSouth to aggregate lines provided to multiple
25 locations of a single customer to determine compliance with FCC Rule

1 51.319(c)(2).” (See Final Order of Arbitration Award in Docket No. 00-00079,
2 dated November 29, 2001, page 20) In support of this decision, the Authority
3 took guidance from the FCC’s Third Report and Order¹ in that the FCC chose
4 to utilize the term “customer” throughout its discussion, rather than “customer
5 location.”

6
7 The Authority subsequently clarified this decision in response to AT&T’s
8 Petition for Reconsideration of the Order. The Authority clarified that
9 “[a]lthough BellSouth can aggregate lines of a customer running from multiple
10 locations for the purpose of determining if BellSouth is obligated to provide
11 unbundled local switching pursuant to FCC Rule 51.319(c)(2), this aggregation
12 must be based on each location within the Nashville Metropolitan Statistical
13 Area served by AT&T.” (See Order Granting in Part Requests for
14 Reconsideration and Clarification, Docket No. 00-00079, dated April 22, 2002,
15 page 5) DeltaCom’s attempt to retain language from its existing
16 interconnection agreement that is contrary to both the Authority’s previous
17 findings and the FCC’s Order should be rejected. The language proposed by
18 BellSouth, however, fully comports with the rulings of this Authority and the
19 FCC and should be accepted.

20
21 ***Issue 36: UNE/Special Access Combinations (Attachment 2 – Sections 10.7 and***
22 ***10.9.1):***

23
24
25 ¹ *In re: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*,
FCC 99-328, CC Docket No. 96-98, released Nov. 5, 1999, paras. 293-297 (“Third Report and Order”).

1 (a) *Should DeltaCom be able to connect UNE loops to special access*
2 *transport?*

3 (b) *Are special access services being combined with UNEs today?*
4

5 Q. WHAT IS BELL SOUTH'S POSITION ON THESE ISSUES?
6

7 A. (a) DeltaCom should not be allowed to connect UNE loops to special access
8 transport. Nothing in the Act or the FCC rules requires BellSouth to combine
9 UNEs with tariffed services. The FCC's Rule regarding combinations (47
10 C.F.R. 51.315) relates to combinations of UNEs. It contains no requirements
11 for an ILEC to combine UNEs with tariffed services. Further, the FCC
12 specifically addressed this matter in its Supplemental Clarification Order,² in
13 which it rejected MCI's request to eliminate the prohibition on co-mingling.
14 The FCC is also addressing this issue in its Triennial Review proceeding.

15
16 (b) BellSouth has no agreements with other CLECs that require UNE/special
17 access services combinations.
18

19 Q. YOU MENTIONED THE FCC'S REJECTION OF MCI'S REQUEST TO
20 ELIMINATE THE PROHIBITION ON CO-MINGLING. COULD YOU
21 EXPLAIN HOW THAT RELATES TO THIS ISSUE?
22
23

24

25 ² *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Supplemental Order Clarification, CC Docket No. 96-98, FCC 00-183, 15 FCC Rcd 9587, para. 28 (rel. June 2, 2000) ("Supplemental Order Clarification").

1 A. Yes. "Co-mingling," as that term is used by the FCC, refers to combining
2 loops or loop-transport combinations with tariffed special access services. The
3 FCC has placed certain prohibitions on a CLEC's ability to co-mingle, and in
4 the Supplemental Order Clarification, the FCC rejected MCI's request to
5 remove these prohibitions on co-mingling. In doing so, the FCC stated that it
6 was "not persuaded on this record that removing this prohibition would not
7 lead to the use of unbundled network elements by IXC's solely or primarily to
8 bypass special access services."³ The FCC's prohibition on co-mingling is
9 necessary and appropriate to prevent substantial market dislocations and to
10 protect an important source of funding for universal service.

11

12 *Issue 37: Conversion of a Special Access Loop to a UNE Loop that Terminates to*
13 *DeltaCom's Collocation (Attachment 2): Where DeltaCom has a special*
14 *access loop that goes to DeltaCom's collocation space, can that special*
15 *access loop be converted to a UNE loop?*

16

17 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

18

19 A. BellSouth should not be required to convert such special access circuits to a
20 UNE loop. BellSouth's position is that CLECs may order standalone UNEs in
21 accordance with their interconnection agreements and may choose to roll
22 traffic currently routed over an existing special access circuit to those UNEs.
23 The conversion requirements specified by the FCC in the Supplemental Order
24 Clarification apply only to conversions of special access services to loop and

25 ³ *Id.*

1 transport (EEL) UNE combinations. Neither the FCC's Rules regarding
2 combinations nor any FCC order addresses, either directly or indirectly,
3 conversions to stand-alone elements, which are, by definition, not
4 combinations, but individual elements that terminate in a collocation
5 arrangement. BellSouth is not obligated under current FCC rules to convert a
6 special access service to a standalone UNE.
7

8 Q. PLEASE EXPLAIN HOW DELTACOM CAN REPLACE SPECIAL
9 ACCESS CIRCUITS WITH STAND-ALONE UNES.
10

11 A. The process for DeltaCom, or any CLEC, to use to replace existing special
12 access circuits with stand-alone UNES is for DeltaCom to order the UNE loops
13 pursuant to its Interconnection Agreement. When the UNE loops are
14 provisioned, DeltaCom can roll the end users' service to the new UNE circuits
15 and the special access circuits can be disconnected.
16

17 ***Issue 57: Rates and Charges for Conversion of Customers from Special Access to***
18 ***UNE-based Service (Attachment 2 – Section 2.3.1.6):***

19 ***a) Should BellSouth be permitted to charge for DeltaCom conversions of***
20 ***customers from special access loop to a UNE loop?***

21 ***b) Should the conversion be completed such that there is no disconnect and***
22 ***reconnect (i.e., no outage to the customer)?***
23

24 Q. WHAT IS BELL SOUTH'S POSITION ON THESE ISSUES?
25

1 A. (a) As I discussed above in regards to Issue 37, BellSouth is not obligated to
2 "convert" special access circuits to stand-alone UNEs. If DeltaCom desires for
3 BellSouth to develop a process for converting special access circuits to stand-
4 alone UNEs, then it is appropriate for BellSouth to make such a process
5 available at compensatory rates. DeltaCom, however, always has the option to
6 order stand-alone UNEs to replace existing special access circuits and only pay
7 the Authority-approved nonrecurring rates for the installation and provisioning
8 of the stand-alone UNEs.

9
10 (b) BellSouth has no process to "convert" stand-alone special access services
11 to stand-alone UNEs. Any request by DeltaCom for such a conversion process
12 is appropriately pursued through the New Business Request ("NBR") process.
13 If DeltaCom is not willing to pursue a NBR and pay BellSouth for project
14 managing the process, DeltaCom has other options to minimize service outage
15 for the end user. It may order a new UNE circuit, roll the traffic to the UNE
16 circuit and then disconnect the special access service. Alternatively, DeltaCom
17 may chose to issue the disconnect ("D") and new connect ("N") orders itself
18 and attempt to time the orders to minimize downtime.

19
20 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

21
22 A. Yes.

23

24

25